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REMARKS

Claims 1-26 were examined. Applicants hereby request further examination and reconsideration of the application in view of the following remarks.

Claims 1-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Laursen et al., U.S. Patent No. 6,847,618 (Laursen) in view of Simard et al., U.S. Patent No. 6,940,826 (Simard). Applicant traverses these rejections for at least the following reasons.

Obviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984). Thus, the Examiner may not use the patent application as a basis for the motivation to combine or modify the prior art to arrive at the claimed invention. Moreover, "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." *M.P.E.P. 2141.02*, citing *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

The Patent Office asserts that Laursen discloses receiving inputs from a number of participants in a conferencing session, and combining those inputs into a first packet having a first payload and a second packet having a second payload, wherein the first packet includes at least one received input that is not included in the second packet. However, as noted by the Patent Office, Laursen fails to disclose, teach or suggest a method and system for combining received inputs into an output packet including a first sub-packet and a second sub-packet, wherein the first sub-packet as presently variously claimed in independent claims 1, 9, 17, 25 and 26. Instead, the Patent Office relies upon Simard for this teaching, arguing that it would have been obvious to combine Laursen with Simard to provide a method and system for establishing a single multicast transmission including both the first and second packets. Applicant disagrees. While Simard discloses a single multicast transmission which includes a mixed voice signal, a primary voice signal, and a secondary voice signal, Simard nowhere teaches or suggests that these voice signals are packetized. Moreover, there would have been no motivation to packetize them in the manner of Laursen, and then combine them into a single packet. Specifically, if the

packets described in Laursen were combined into a single packet, the header overhead of the resulting packet would be increased, not decreased as the Patent Office suggests since the packet overhead inherent in each packet would be added to by the packet overhead of the single multicast transmission packet itself. Consequently, Laursen and Simard fail to disclose, teach or suggest the method and systems of the present invention.

With respect to dependent claims 6, 13 and 22, the Patent Office notes that Laursen and Simard fail to disclose that the output packet is configured as a UDP packet which encapsulates the first sub-packet and the second sub-packet, the first sub-packet and the second sub-packet configured as RTP packets as claimed. However, the Office takes official notice "that a method and system for multiplexing a plurality of RTP packets into UDP packet is well known and expected in the art at the time of invention was made to implement this teaching into the system and method of Laursen and Simard," arguing the motivation of reducing the header overhead of voice streams. Similarly, with respect to dependent claim 15, the Patent Office notes that Laursen and Simard fail to disclose that the headers are contributing sources (CSRC) headers. Again, the Office takes official notice that a "method and system for using CSRC to identify source is well known and expected in the art which uses Real time transport protocol" arguing that "it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply CSRC field into the RTP packets of Laursen and Simard" again arguing the motivation of reducing the header overhead of voice streams.

As the Office is well aware, Applicants are required to seasonably challenge statements by the Office that are not supported on the record. M.P.E.P. §2144.03. Further, it is noted that "Official Notice" is to be limited to instances where the facts are "capable of instant and unquestionable demonstration as being well-known". M.P.E.P. §2144.03. This is not the present situation. First, in accordance with M.P.E.P. §904 it is presumed that a full search was conducted and this search is indicative of the prior art. The search failed to disclose a reference which would teach or suggest modifying the *Cheston* reference to achieve the present invention wherein an incremental storage occurs. Consequently, the search revealed that the asserted substitution is not well-known and therefore is not entitled to be relied upon in order to reject the present claimed invention. If the Office is unable to provide such a reference, and is relying on

facts based on personal knowledge, Applicant hereby requests that such facts be set forth in an affidavit from the Examiner under 37 C.F.R. 1.104(d)(2).

Accordingly, for at least the above reasons, it is submitted that claims 1-26 are patentable over the cited references. Withdrawal of the rejections of claims 1-26 is therefore requested.

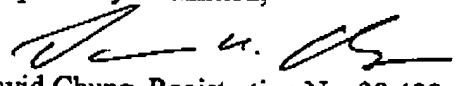
CONCLUSION

In view of the foregoing, it is submitted that the claims are in condition for allowance. Issuance of the present application as a patent is therefore solicited.

It is believed no fee is due at this time. However, should the Examiner disagree, please charge the undersigned's Deposit Account No. 19-2179. Please also charge this deposit account, at any time during the pendency of this application, for any additional fees required, or credit any overpayment, pursuant to 37 CFR §1.25.

PLEASE MAIL CORRESPONDENCE TO: Respectfully Submitted,

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